MONTANA LEGISLATIVE HISTORY

Chapter 328 19 1981

Bill H 316 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	1/28	C	Hearing Date(s)	3/6	C
		C		3/14	C
		C		3/24	C
		C			C
Date Out	1/28	C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

INTRODUCED: 1/19
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/19
HEARING: 1/29
BILL DIED IN COMMITTEE

HB 314—GOULD, UNDERDAL, LUND, ET AL—TO REQUIRE THAT PAYMENTS OF PUBLIC FUNDS BY A MUNICIPALITY TO A LOBBYIST ORGANIZATION BE AUTHORIZED BY A VOTE OF THE ELECTORS OF THE MUNICIPALITY.
INTRODUCED: 1/20
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/20
HEARING: 1/30
REPORT: DO NOT PASS, 1/30
REPORT: ADOPTED, 2/2
BILL KILLED: 2/2 YEAS: 86; NAYS: 11

HB 315—GOULD—PROVIDING THAT AN ESCAPE FROM A HALFWAY HOUSE, LIFE SKILLS CENTER, OR FURLOUGH PLACEMENT CONSTITUTES FELONY ESCAPE.
INTRODUCED: 1/19
REFERRED TO COMMITTEE ON JUDICIARY: 1/19
REPORT: DO PASS, 1/28
2ND READING: 2/2 YEAS: 94; NAYS: 0
3RD READING: 2/4 YEAS: 94; NAYS: 0

TRANSMITTED TO SENATE: 2/4
REFERRED TO COMMITTEE ON JUDICIARY: 2/5
HEARING: 3/4
REPORT: 3/4, BE CONCURRED IN
2ND READING: 3/6, BE CONCURRED IN
3RD READING: 3/9, YEAS: 40; NAYS: 4

RETURNED TO HOUSE: 3/9
TRANSMITTED TO GOVERNOR: 3/14
ACTION: SIGNED, 3/17
CHAPTER 72

HB 316—GOULD—TO SUBSTITUTE THE DEPARTMENT OF INSTITUTIONS FOR THE BOARD OF PARDONS WITH REGARD TO JURISDICTION OVER CERTAIN PRISONERS....
INTRODUCED: 1/19
REFERRED TO COMMITTEE ON JUDICIARY: 1/19
REPORT: DO PASS AND PLACE ON CONSENT CALENDAR: 1/28
3RD READING: 2/3 YEAS: 97; NAYS: 0

TRANSMITTED TO SENATE: 2/3
REFERRED TO COMMITTEE ON JUDICIARY: 2/4
HEARING: 3/6
REPORT: 3/16, NO ACTION
RE-REFERRED TO COMMITTEE ON JUDICIARY: 3/16
REPORT: 3/25, BE CONCURRED IN
2ND READING: 3/27, BE CONCURRED IN
3RD READING: 3/31, YEAS: 46; NAYS: 4

RETURNED TO HOUSE: 3/31
TRANSMITTED TO GOVERNOR: 4/6
ACTION: SIGNED, 4/9
CHAPTER 328

HB 317—GOULD—TO ALLOW THE DEPARTMENT OF INSTITUTIONS TO ISSUE WARRANTS OF ARREST AND RETURN OF PERSONS WHO ABSCOND FROM FURLOUGH OR COMMUNITY PLACEMENTS.

HOUSE BILL NO. 316

INTRODUCED BY GOULD

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

January 19, 1981	Introduced and referred to Committee on Judiciary.
January 29, 1981	Committee recommend bill do pass and be placed on consent calendar. Report adopted.
January 30, 1981	Considered correctly engrossed.
February 3, 1981	Consent calendar, do pass. Transmitted to Senate.

IN THE SENATE

February 4, 1981	Introduced and referred to Committee on Judiciary.
March 16, 1981	On motion bill taken from Committee on Bills and Journal and referred to Committee on Judiciary. Motion adopted.
March 25, 1981	Committee recommend bill be concurred in. Report adopted.
March 27, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.
	Third reading, concurred in. Ayes, 46; Noes, 4.

IN THE HOUSE

April 1, 1981

Returned from Senate.
Concurred in. Sent to
enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 316

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBSTITUTE THE DEPARTMENT OF INSTITUTIONS FOR THE BOARD OF PARDONS WITH REGARD TO JURISDICTION OVER CERTAIN PRISONERS AND CONDUCT OF HEARINGS FOR CERTAIN PRISONERS; AMENDING SECTIONS 46-18-203 AND 46-23-422, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. A judge, magistrate, or justice of the peace who has suspended the execution of a sentence or deferred the imposition of a sentence of imprisonment under 46-18-201 or his successor is authorized, during the period of the suspended sentence or deferred imposition of sentence, in his discretion, to revoke the suspension or impose sentence and order the person committed. He may also, in his discretion, order the prisoner placed under the jurisdiction of the ~~board--of--pardons~~ department of institutions as provided by law or retain such jurisdiction with his court. Prior to the revocation of an order suspending or deferring [illegible] of sentence, the person affected shall be given a hearing."

LC 0499/01

Section 2. Section 46-23-422, MCA, is amended to read:

"46-23-422. Violation of furlough agreement by prisoner. (1) If any prisoner released from actual prison confinement under the furlough program fails to comply with the rules of the furlough agreement, he shall be called by the department or by the supervising agency to appear before the department or supervising agency.

(2) If a conference is not sufficient to resolve the situation and if the prisoner continues in his noncompliance, the prisoner shall be granted a hearing on the violation within a reasonable time on or near the site of the alleged violation to determine whether a violation of the furlough agreement exists. The prisoner may be represented by counsel at the hearing at his own expense. The hearing shall be conducted by a hearing officer of the ~~board-of-pardons~~ department of institutions. The prisoner on furlough shall have all opportunities provided under 46-23-1024 and 46-23-1025 pertaining to on-site hearings for parole revocation. If reasonable grounds are established for violation of the furlough agreement, the furlough shall be cancelled and the prisoner shall be returned to the prison.

(3) At the next meeting of the board of pardons after the return of the prisoner to the prison, the prisoner shall be granted a due process hearing in order to determine if

the prisoner has in fact violated the terms of the prisoner's furlough release. If it is determined that the prisoner has in fact violated the terms of the prisoner's furlough, the prisoner shall remain at the prison. If the terms of the prisoner's release have not been violated, the prisoner's case shall be assigned to a parole agent and a new furlough arrangement shall be worked out."

-End-

JUDICIARY COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
315	Providing that an escape from a halfway house, life skills center, or furlough placement constitute felony escape.	1/19/81	Gould	1/28/81	Do Pass 1/28/81	1/28/81
316	To substitute the Dept. of Institutions for the Board of Parsons with regard to jurisdiction over certain prisoners.	1/19/81	Gould	1/28/81	Do Pass and Place on Consent Calendar 1/28/81	1/28/81
317	To allow the Dept. of Institutions to issue warrants of arrest and return of persons who abscond from furlough or community placements.	1/19/81	Gould	1/28/81	Do Pass 1/29/81	1/29/81
335	To change the effective date of an initiative, constitutional amendment, or referendum to October 1 following approval.	1/19/81	Kanduch, Brown, Conroy, et al.	1/28/81	Do Pass as Amended 1/28/81	1/28/81
336	To prohibit solicitation within or at the entry of any polling place.	1/19/81	Kanduch	2/13/81	Do Pass 2/13/81	2/13/81
337	To authorize GVW Personnel to arrest for violations of motor vehicle registration, etc.	1/19/81	Kanduch	2/4/81	Do Pass as Amended 2/5/81	2/5/81

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
January 28, 1981

The meeting of the House Judiciary Committee was called to order at 8:00 a.m. in Room 437 of the Capitol by Chairman Kerry Keyser presiding. All committee members were present except Rep. Teague, who was excused. (Rep. Teague later was present for the executive session). Jim Lear, Legislative Council, was present.

HOUSE BILL 300 REP. MATSKO, chief sponsor, told the committee this was an act to enact the provisions of the model drug paraphernalia act. The bill is practically an enactment of the DEA drug act. All items that would be included are listed in the bill.

CAPTAIN GERALD OBRESLEY, representing Law Enforcement, noted he has been with the department for 16 years. Ten of those years he has dealt with drug investigation. OBRESLEY stated paraphernalia are instruments used by a person who uses drugs. Paraphernalia helps to facilitate the crime of taking drugs. By eliminating this we are going to somewhat eliminate drug users. Law enforcement officers educate youth about the dangers of drugs. When the students leave the class and see a head shop it seems to be a double standard of the law.

OBRESLEY showed the committee items used for taking the drugs. He stated marijuana is the only type of substance that could be used in the pipes and bongs as regular tobacco would not work. The owners of these shops are making a big profit. If these shops were prohibited to sell the paraphernalia it would still not close the shops completely since most shops sell other items such as records or clothes.

OBRESLEY stated at fairgrounds they have booths and games that sell various types of paraphernalia.

REOBERT C. JONES, Law Enforcement, is in support of this bill. JONES showed committee members various magazines and books that promote the use of drugs. Most of these can be found on bookshelves in book stores. The youth feel they identify with the drug culture by buying these items.

JOHN SCULLY, Sheriff and Police Office in Bozeman, supports this bill. The bill is well written and covers all aspects of the drug industry.

TOM HONZEL, County Attorneys, supports this bill.

JUDY GRIFFITH, CAC, supports this bill. GRIFFITH stated the public needs to give the enforcement agencies help in this. Many people feel that eliminating the legal sale of paraphernalia in stores will eliminate the drug problem. GRIFFITH stated it would not. She showed the committee different homemade paraphernalia. It is important to realize the drug problem will not be eliminated but by enactment of this bill it will help slow down the drug scene.

HOUSE BILL 315 REP. KEYSER presented the bill for sponsor GOULD. KEYSER noted the bill was to provide that an escape from a half-way house, life skills center, or furlough placement constitutes felony escape.

DONALD ROBEL, Department of Institutions, stated there were 14 escapes from these types of places out of 115 inmates sent there. Under the present law it is regarded as a misdemeanor. This bill would make the crime a felony.

There were no other proponents.

There were no opponents.

REP. MATSKO asked the number of women sent to life skill centers. ROBEL replied there are 12 in Billings and 16 in Missoula at the present time.

REP. SEIFERT asked if this would include the girls home in Helena. ROBEL replied no because this was for adults only.

CHAIRMAN KEYSER noted that people sent to halfway houses are convicted felonies who are serving the remainder of their time there.

There was no further discussion on House Bill 315.

HOUSE BILL 316 REP. KEYSER presented the bill for sponsor GOULD. KEYSER noted the Department of Institutions had requested the bill. It is an act to substitute the Department of Institutions for the Board of Pardons with regard to jurisdiction over certain prisoners.

ED HALL, Department of Institutions, stated the purpose was to rectify the language. The Board of Pardons does presently have jurisdiction which was given in the 1950's. In 1975 it was changed to the Department of Institutions by legislative action but this section was inadvertently left off.

There were no further proponents on the bill.

There were no opponents.

There was no further discussion on House Bill 316.

HOUSE BILL 317 REP. KEYSER presented the bill for sponsor GOULD. KEYSER noted it was to allow the Department of Institutions to issue warrants of arrest and return of persons who abscond from furlough

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 300	2/14/81	3/11/81	3/21/81					3/21/81	
HB 301	2/04/81	3/04/81	3/04/81					3/04/81	
HB 315	2/05/81	3/04/81	3/04/81				3/04/81		
HB 316	2/04/81	3/06/81 ✓	3/14/81						3/14/81
HB 316	3/16/81	3/24/81	3/16/81				3/24/81		
HB 317	2/05/81	3/06/81	3/14/81						3/14/81
HB 335	2/05/81	3/04/81	3/04/81				3/04/81		
HB 379	2/05/81	3/05/81	3/05/81				3/05/81		
HB 379	3/09/81	3/14/81	3/14/81					3/14/81	
HB 396	3/13/81	3/17/81	3/17/81				3/17/81		
HB 403	2/09/81	3/06/81	3/24/81					3/24/81	
HB 405	2/09/81	3/06/81	3/09/81					3/09/81	
HB 480	2/13/81	3/19/81	3/23/81					3/23/81	
HB 485	2/20/81	3/05/81	3/05/81						3/05/81
HB 508	2/16/81	3/05/81	3/05/81				3/05/81		
HB 534	2/18/81	3/11/81	3/14/81				3/14/81		

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 6, 1981

The thirty-seventh meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present except Senator B. Brown, who was excused.

CONSIDERATION OF HOUSE BILL 316:

TO SUBSTITUTE THE DEPARTMENT OF INSTITUTIONS FOR THE BOARD OF PARDONS WITH REGARD TO JURISDICTION OVER CERTAIN PRISONERS.

Rep. Gould, District 98, Missoula, presented the bill and described it as a simple word change.

Dan Russell, administrator of the Department of Institutions, introduced Nick Rotering, legal counsel for the Department of Institutions, who said that the bill's purpose was clarification.

Gary Broyles, of the Montana Board of Pardons, spoke in opposition to the bill and said that current statutes give adequate coverage. He added that the word change suggested in the bill would unnecessarily restrict the flexibility of the Board of Pardons.

Senator O'Hara asked for Mr. Russell's response to this objection, and was told that this objection had not been raised when the bill was in the House, and the Department of Institutions was unaware that the Board of Pardons had any objection to the bill.

CONSIDERATION OF HOUSE BILL 317:

TO ALLOW THE DEPARTMENT OF INSTITUTIONS TO ISSUE WARRANTS OF ARREST AND RETURN OF PERSONS WHO ABSCOND FROM FURLOUGH OR COMMUNITY PLACEMENTS.

Rep. Gould presented the bill and called it a companion bill to HB 316. He described the intent as being that of making better use of settings such as Alpha House, Life Skills Center,

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 14, 1981

The forty-third meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF HOUSE BILL 110:

Senator Halligan moved to amend the bill on line 25, following "term of" by inserting "not less than", and following "5 years" by inserting "or not more than 10 years". His motion passed unanimously. Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 99:

Senator O'Hara moved that the bill BE CONCURRED IN, and his motion passed over the objection of Senators Halligan and Mazurek.

DISPOSITION OF HOUSE BILL 213:

Senator Mazurek moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 154:

Senator Halligan moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 96:

Senator O'Hara moved that the bill be amended on page 1, line 23, following "property", by inserting "for less than fair market value", and his motion passed unanimously. Senator O'Hara then moved that it BE CONCURRED IN AS AMENDED, and his motion passed over the objection of Senator Olson.

DISPOSITION OF HOUSE BILL 534:

Senator Berg moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 690:

Senator O'Hara moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 6:

Senator Mazurek moved to amend the bill on page 3, lines 22 and 23, as shown on the attached Committee Report, and his motion passed unanimously. Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 371:

Senator Halligan moved that the bill BE NOT CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 316:

Senator Mazurek moved that the bill BE NOT CONCURRED IN, and his motion passed over Senator O'Hara's objection.

DISPOSITION OF HOUSE BILL 379:

Senator Mazurek moved that the bill be amended on pages 1 and 2, as shown on the attached Committee Report, and his motion passed unanimously. Senator Mazurek then moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 93:

Senator Berg moved that the bill BE NOT CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 284:

Senator Crippen moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 207:

Senator Mazurek moved that the bill BE NOT CONCURRED IN, and his motion passed unanimously.

Mike Anderson
Chairman, Judiciary Committee

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
MARCH 24, 1981

The fifty-first meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

DISPOSITION OF HOUSE BILL 316:

Senator Mazurek moved to reconsider the action taken March 14, which resulted in a "be not concurred in" vote. He said that this bill merely puts into law what the practice has been since 1975. His motion carried unanimously. Senator Mazurek then moved that the bill BE CONCURRED IN, and his motion passe over the objection of Senators Tveit and Olson.

DISPOSITION OF HOUSE BILL 66:

Senator B. Brown moved that the bill BE CONCURRED IN, and his motion passed with Senators Anderson, O'Hara, Olson, and Berg opposing, as shown on the attached roll call vote.

DISPOSITION OF HOUSE BILL 273:

Senator Crippen moved to amend the bill as shown on the attached Committee Report, and his motion passed over the objection of Senators O'Hara and S. Brown. Senator Berg moved that the bill BE NOT CONCURRED IN, since the law is presently adequate if enforced, and his motion passed over Senator S. Browne' objectior

DISPOSITION OF HOUSE BILL 403:

Senator S. Brown moved to amend the bill as shown on the attached Committee Report, and his motion passed over Senator Tveit's objection. Senator S. Brown then moved that the bill BE CONCURRED IN AS AMENDED, and the motion carried over the objection of Senators Anderson, Olson, Crippen, and Tveit, as shown on the attached roll call vote.

DISPOSITION OF HOUSE BILL 12:

Senator O'Hara moved that the bill BE CONCURRED IN, and his motion passed over the opposition of Senators Halligan, Mazurek, Crippen, and B. Brown.

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date March 24, 19

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

5

March 24, 19 81

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 316

GOULD (MAZUREK)

Respectfully report as follows: That HOUSE Bill No. 316

DO PASS
BE CONCURRED IN

G.C.

STATE PUB. CO.
Helena, Mont.

Mike Anderson
Chairman.

HOUSE BILL NO. 316

INTRODUCED BY GOULD

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBSTITUTE THE DEPARTMENT OF INSTITUTIONS FOR THE BOARD OF PARDONS WITH REGARD TO JURISDICTION OVER CERTAIN PRISONERS AND CONDUCT OF HEARINGS FOR CERTAIN PRISONERS; AMENDING SECTIONS 46-18-203 AND 46-23-422, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-203, MCA, is amended to read:

"46-18-203. Revocation of suspended or deferred sentence. A judge, magistrate, or justice of the peace who has suspended the execution of a sentence or deferred the imposition of a sentence of imprisonment under 46-18-201 or his successor is authorized, during the period of the suspended sentence or deferred imposition of sentence, in his discretion, to revoke the suspension or impose sentence and order the person committed. He may also, in his discretion, order the prisoner placed under the jurisdiction of the ~~board--of--pardons~~ department of institutions as provided by law or retain such jurisdiction with his court. Prior to the revocation of an order suspending or deferring the imposition of sentence, the person affected shall be given a hearing."

Section 2. Section 46-23-422, MCA, is amended to read:

"46-23-422. Violation of furlough agreement by prisoner. (1) If any prisoner released from actual prison confinement under the furlough program fails to comply with the rules of the furlough agreement, he shall be called by the department or by the supervising agency to appear before the department or supervising agency.

(2) If a conference is not sufficient to resolve the situation and if the prisoner continues in his noncompliance, the prisoner shall be granted a hearing on the violation within a reasonable time on or near the site of the alleged violation to determine whether a violation of the furlough agreement exists. The prisoner may be represented by counsel at the hearing at his own expense. The hearing shall be conducted by a hearing officer of the ~~board-of-pardons~~ department of institutions. The prisoner on furlough shall have all opportunities provided under 46-23-1024 and 46-23-1025 pertaining to on-site hearings for parole revocation. If reasonable grounds are established for violation of the furlough agreement, the furlough shall be cancelled and the prisoner shall be returned to the prison.

(3) At the next meeting of the board of pardons after the return of the prisoner to the prison, the prisoner shall be granted a due process hearing in order to determine if

REFERENCE BILL

the prisoner has in fact violated the terms of the prisoner's furlough release. If it is determined that the prisoner has in fact violated the terms of the prisoner's furlough, the prisoner shall remain at the prison. If the terms of the prisoner's release have not been violated, the prisoner's case shall be assigned to a parole agent and a new furlough arrangement shall be worked out."

-End-